

Shall the ordinance prohibiting the County of Orange from exercising the power of eminent domain to acquire property from a private owner, without that owner's consent, when the purpose of the acquisition is to convey the property to another private party, be adopted?

**FULL TEXT OF MEASURE A
COUNTY OF ORANGE**

No. _____

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA

THE PEOPLE OF THE COUNTY OF ORANGE HEREBY ORDAIN AND
ENACT AS FOLLOWS:

Title 2, Division 3 of the Codified Ordinances of Orange County is added
as follows:

Section 1. This ordinance shall be known and may be cited as AN
ORDINANCE PROHIBITING THE EXERCISE OF EMINENT DOMAIN
FOR PRIVATE PURPOSES.

Section 2. The County may not exercise the power of eminent domain to
acquire property from any private Owner thereof, without such Owner's
consent, when the purpose of the acquisition is to convey the property so
acquired to any private party.

As used in this section, "Owner" means the owner of the fee title interest
in the property to be acquired.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE A**

This measure would prohibit the County of Orange from exercising the power of eminent domain to acquire property from a private owner, without that owner's consent, when the purpose of the acquisition is to convey the property to another private party. The owner of the property is defined in the measure as the owner of fee title interest in the property to be acquired.

In a widely reported decision last year, the U.S. Supreme Court upheld a Connecticut law that allows local governmental entities to exercise the power of eminent domain for so-called "economic development" purposes. Such use of the condemnation power is designed to put property in the hands of private parties who will put it to what those government entities consider to be more economically beneficial uses. *Kelo v. City of New London*, 125 S. Ct. 2655 (2005).

The proposed measure would ensure that the County will not exercise the power of eminent domain for the purpose of conveying private property to any other private party.

ARGUMENT IN FAVOR OF MEASURE A

The government's power to take your land, your home or your business by eminent domain must be used only for public uses. Eminent domain should never be used to take one person's property and transfer it to another private party.

Measure A prohibits the County of Orange from using eminent domain to take one person's property to transfer to another person. Measure A will guarantee that the County of Orange will use eminent domain only for public uses, such as roads, parks or flood control projects.

In the Supreme Court's 5-4 *Kelo vs. New London* decision, the Court ruled that eminent domain could be used to take Suzanne Kelo's home and transfer it to a private developer. This decision has focused public concern about the increasing abuse of eminent domain for private uses. The Court further ruled that state and local governments may place their own restrictions on eminent domain powers. Homeowners and business owners need guarantees that their property rights will be respected.

The House of Representatives voted 376-38 to deny federal funding for projects using eminent domain for private use. State legislatures, including California's, are considering constitutional limitations against eminent domain abuse. Here in Orange County, a growing number of cities are considering their own November ballot measures. Measure A will be an example to others of Orange County's commitment that all share equally in the right to own and enjoy their property.

Your Board of Supervisors shares that commitment. We have never used eminent domain for private use. The tenure of Board Members, however, is limited. Measure A will assure that the protection of property rights will be an ordinance of the County of Orange and the permanent policy of future Boards of Supervisors.

We ask you to vote Yes on Measure A.

s/ Chris Norby
Orange County Supervisor, 4th District

s/ Bill Campbell
Orange County Supervisor, 3rd District

s/ Lou Correa
Orange County Supervisor

s/ Tom Wilson
Orange County Supervisor, 5th District

s/ Jim Silva
Orange County Supervisor